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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 92-170
)	
LIBERTY UNIVERSITY, INC.)	File No. BPED-911206MB
Channel 210A)	
Lynchburg, Virginia)	
)	
VISION COMMUNICATIONS, INC.)	File No. BMPED-920414IF
WRXT(FM))	
Channel 212C2)	
Roanoke, Virginia)	

To: Administrative Law Judge
Edward Luton

**MASS MEDIA BUREAU'S COMMENTS ON
AMENDMENT OF VISION COMMUNICATIONS, INC.**

1. On September 15, 1992, Vision Communications, Inc. ("Vision"), filed an amendment to its application. The Mass Media Bureau submits the following comments.

2. Vision's application for modification of its construction permit for a noncommercial FM station on Channel 212C2 at Roanoke, Virginia, is mutually exclusive with the application of Liberty University, Inc. ("Liberty"), for a new noncommercial FM station at Lynchburg, Virginia. By a Petition for Leave to Amend filed on September 1, 1992, Liberty sought to change its proposed channel of operation from 210A to 215A to eliminate the mutual exclusivity. Liberty requested a waiver of Section 73.509 of the Commission's Rules because of a small amount of contour overlap that would be caused to Vision's proposed service area. In Comments filed on September 11, 1992,

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the Bureau generally supported Liberty's amendment, but stated that it would wait to comment on the waiver request until Vision filed its anticipated amendment.

3. The Bureau submits that Vision's amendment has not been filed properly in this proceeding. The amendment was not accompanied by a petition for leave to amend, was not submitted with the requisite number of copies and was not directed to the Presiding Judge. Furthermore it is part of a letter pleading which is improper in an adjudicatory proceeding. See Belo Broadcasting Corp., 44 FCC 2d 534, 537 (1973). Accordingly, it is procedurally defective and should be dismissed. Considering the amendment on its merits, the Bureau submits the following comment.

4. In the instant amendment, Vision proposes to increase its power and change its directional antenna pattern. In addition, Vision agrees to accept the contour overlap which will be caused by Liberty. The Bureau's engineering staff has analyzed the proffered amendment and has concluded that the amendment conforms with the Commission's technical requirements except for Section 73.509 of the Commission's Rules. Vision and Liberty have also asked for a waiver of this rule because the prohibited overlap between Liberty's 100 dBu contour and Vision's 60 dBu contour encompasses only 0.03 percent of the area inside Vision's total proposed service area. In addition, this overlap

area is not populated. For these reasons, and because a waiver would allow the provision of increased service by Vision and new service by Liberty, a waiver of Section 73.509 to allow this third-adjacent channel overlap would be consistent with Commission precedent set forth in Educational Information Corporation, 6 FCC Rcd 2207 (1991).

5. In view of the foregoing, the mutual exclusivity will be eliminated between the proposals of Liberty and Vision upon the acceptance of properly filed amendments and grant of a waiver of Section 73.509 of the Commission's Rules. However, an air hazard issue, for which summary decision has been sought, still remains against Liberty and a contingent environmental issue remains against Vision. After favorable resolution of these issues both applications, as properly amended, may be granted.

6. Any grant of Vision's application should contain the following condition:

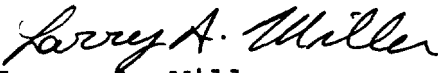
Further modifications to the facilities specified in BPED-911206MB, as amended, will not be construed as a per se modification of WRXT(FM)'s license. See Educational Information Corporation, 6 FCC Rcd 2207 (1991).

7. In sum, Vision's "amendment" should be dismissed as being procedurally defective. In the event that it is properly

filed, for the reasons stated herein, the Bureau would support its acceptance.

Respectfully submitted,
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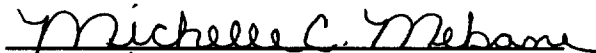
September 24, 1992

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 24th day of September, 1992, sent by regular United States mail, U.S. government frank, copies of the foregoing **"Mass Media Bureau's Comments on Amendment of Vision Communications, Inc."** to:

Vision Communications, Inc.
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